

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Kohei ODA et al.

Application No.: 10/090,155

Filed: March 5, 2002

For: METHOD FOR DECOMPOSING POLY-
ESTERS CONTAINING AROMATIC
MOIETIES, A DENIER REDUCTION
METHOD OF FIBER, AND MICRO-
ORGANISMS HAVING ACTIVITY OF
DECOMPOSING THE POLYESTER

Art Unit: 1651

Examiner: H. Lilling

Atty. Docket No. 32290-178594

Customer No.

26694

PATENT TRADEMARK OFFICE

DECLARATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Sir:

I, Kohei ODA, declare and state that I am a co-inventor of the above-identified application.

I am advised that the Examiner of the above-identified application has stated that

“The reference teaches an Arthrobacter Strain KK-3 which has essentially the same properties as disclosed in the specification on pages 9-10 with the only difference is the mobility or motility of the microorganism. Arthrobacter strains are essentially negative, however, the instant microorganism as claimed is positive. . . . It is presumed the reference species is the same or that there is no patentable distinction between the two. . . .” [February 2004 U.S. Patent Office Paper]

The discussion below is directed to those statements by the Examiner. The discussion below is based on experiments reported herein. The experiments related to the properties of Mobility[motility] and to an analysis, a 16SrDNA-500 Base Sequence Analysis.

In order to undertake the experiments below, we obtained Arthrobacter Strain KK-3 according to Endo et al (FERM BP-5414) from Japanese Authorized Depositary Organization, and compared its characteristic with that of FERM BP-6444 (the strain according to present specification).

MOTILITY

The inventors compared mobility of the two strains by the means of microscopic observation. FERM BP-6444 showed mobility, which is consistent with description in page 9 of present specification. Meanwhile, Arthrobacter Strain KK-3 did not exhibit mobility, as described in page 3 of Endo et al. Therefore, the two strains exhibited different mobility characteristics. This observation is based on microscopic observation.

16SrDNA-500 base sequence analysis

The inventors assigned the sequence analysis to an external institute (NCIMB Japan CO., LTD.) to ensure fairness and accuracy of the experimental data. The sequence alignment is attached to this DECLARATION as Enclosure 1. As shown in the sequence data, the result of the 16SrDNA-500 base sequence analysis exhibited 89.15% of homology between the two strains (Arthrobacter Strain KK-3 and FERM BP-6444). According to the 16SrDNA-500 base sequence analysis, it is generally recognized that two strains exhibiting homology of higher than 97% may possibly be identical. However, as the sequence homology was 89.15% and did not exhibit such high homology, the two strains are not considered to be identical. In other words, according to this analysis, it is suggested that the two strains are taxonomically different. Also attached hereto is a literature reference relating to the 16SrDNA-500 base sequence analysis [E.Stackebrandt et al., International Journal of Systematic and Evolutionary Microbiology (2002) 52-p1043-1047].

I believe the above experimental data distinguishes FERM BP-6444 from Arthrobacter Strain KK-3.

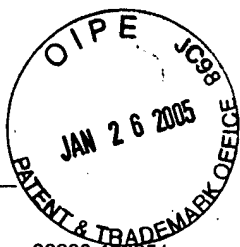
I further declare that all statements herein are made on information and belief which are believed to be true, and are made with the knowledge that willful false statements are punishable by fine and imprisonment and that such willful false statements may jeopardize the validity of a patent which issues.

Sept. 27, 2004
DATE

Kohei Oda
Dr. Kohei ODA

122757

Venable Filing Number



Attorney/L. A. MVS /mdc
PTO Due Date: N/A
DATE FILED: OCTOBER 12, 2004



Atty. Docket No: 32290-178954
Title: METHOD FOR DECOMPOSING POLY-
ESTERS CONTAINING AROMATIC
MOIETIES, A DENIER REDUCTION
METHOD OF FIBER, AND MICRO-
ORGANISMS HAVING ACTIVITY OF
DECOMPOSING THE POLYESTER

Application No: 10/090,155

Filing Date: March 5, 2002

Patent No.:

Issue Date:

Trademark:

Trademark Reg. No:

Opposition/Cancellation No:

The following items were received from Venable, Washington, D.C., by the U.S. Patent & Trademark Office:

U.S. PTO FEES ENCLOSED

- | | |
|---|----------------------------------|
| <input type="checkbox"/> Transmittal Letter | _____ Filing Fee |
| <input type="checkbox"/> Fee Transmittal Letter | _____ Surcharge Fee |
| <input type="checkbox"/> New U.S. Provisional Application (_____ pages of specification/claims) | _____ Additional Claim Fee |
| <input type="checkbox"/> Formal Drawings (_____ sheets, _____ Figs.) | _____ Recordation/Indexing Fee |
| <input type="checkbox"/> Invention Declaration | _____ IDS Fee |
| <input type="checkbox"/> U.S. National Stage Application of PCT Application | _____ Extension Fee |
| <input type="checkbox"/> Translation of International Application | _____ Notice of Appeal Fee |
| <input type="checkbox"/> New U.S. TM Application (_____ specimens) | _____ Brief on Appeal Fee |
| <input type="checkbox"/> Rule 53(d) Continued Prosecution Application | _____ Oral Hearing Request Fee |
| <input type="checkbox"/> Substitute Specification | _____ Petition Fee |
| <input type="checkbox"/> Rule 53(b) Continuation or Divisional Application (attach copy of specification, claims, drawings & declaration) | _____ Issue Fee |
| <input type="checkbox"/> Priority Document-Cert. Copy of Appln.#: _____ ; Country | _____ Publication Fee |
| <input type="checkbox"/> Date Filed: _____ | _____ Maintenance Fee |
| <input type="checkbox"/> Request for Continued Examination (RCE) under 37 CFR 1.114 | _____ TM Statement of Use |
| <input type="checkbox"/> Request for Reconsideration | _____ 8 Affidavit Fee |
| <input type="checkbox"/> Application Data Sheet | _____ 8 and 15 Affidavit |
| <input type="checkbox"/> Assignment w/PTO Form 1595 Cover Sheet | _____ TM Renewal Application Fee |
| <input type="checkbox"/> IDS w/PTO Form-1449 (_____ references) | _____ Notice of Opposition Fee |
| <input type="checkbox"/> Response | _____ TM Extension of Time Fee |
| <input type="checkbox"/> Amendment | |
| XX TRANSMITTAL: RE : EXPIRATION OF PERIOD OF SUSPENSION OF 3 MONTHS With DECLARATION | |
| <input type="checkbox"/> Notice of Appeal | |
| <input type="checkbox"/> Appeal Brief (in triplicate) | |
| <input type="checkbox"/> <input type="checkbox"/> Reply Brief (in triplicate)/ <input type="checkbox"/> Request for Oral Hearing | |
| <input type="checkbox"/> Confirmation of Hearing Petition | |
| <input type="checkbox"/> Issue Fee Transmittal | |
| <input type="checkbox"/> Certificate of Correction | |
| <input type="checkbox"/> Maintenance Fee Transmittal | |
| <input type="checkbox"/> Power of Attorney | |
| <input type="checkbox"/> Response to Notice to File Missing Parts | |
| <input type="checkbox"/> Response to Notice to File Missing Requirements | |
| <input type="checkbox"/> Response to Restriction Requirement | |
| <input type="checkbox"/> Petition to Revive | |
| <input type="checkbox"/> Sequence Listing - CDR Enclosed? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| <input type="checkbox"/> Status Inquiry | |
| <input type="checkbox"/> Request for Non-Publication | |
| <input type="checkbox"/> Request to Rescind Non-Publication Request | |
| <input type="checkbox"/> Terminal Disclaimer | |
| <input type="checkbox"/> TM Statement of Use | |
| <input type="checkbox"/> Extension of Time (_____ mo. ext.) | |
| <input type="checkbox"/> Declaration Under 8 | |
| <input type="checkbox"/> Declaration Under 8 and 15 | |
| <input type="checkbox"/> Return Postcard | |
| <input type="checkbox"/> Other: (Please describe below) | |

Total Fees Paid